

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>WAYNE THOMAS JOHNSON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>1:09CV774</b>
	)	
<b>S. MARK RABIL, et al.,</b>	)	
	)	
<b>Defendant(s).</b>	)	

**ORDER AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff, a prisoner of the State of North Carolina, has submitted a civil rights action pursuant to 42 U.S.C. § 1983, together with an application to proceed *in forma pauperis*. The form of the complaint is such that serious flaws make it impossible to further process this complaint. The problems are that:

1. Pursuant to the Prison Litigation Reform Act, Plaintiff may no longer proceed *in forma pauperis* in this Court unless he is under imminent danger of serious physical injury. The Act provides that:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). In this Court alone, Plaintiff has had three cases dismissed on the grounds that they were frivolous. (Nos. 1:00CV802; 1:00CV1200; 1:01CV702.) Plaintiff does not allege that he is in any imminent danger in the present case.

2. Plaintiff has failed to provide a sufficient number of copies. Plaintiff must submit the original, one copy for the Court, and one copy for each defendant named.

Consequently, this particular complaint should be dismissed without prejudice to Plaintiff resubmitting his complaint with the \$350.00 filing fee. *In forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

**IT IS THEREFORE ORDERED** that *in forma pauperis* status is granted for the sole purpose of entering this Order.

**IT IS RECOMMENDED** that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff resubmitting his complaint with the \$350.00 filing fee.

\_\_\_\_\_  
/s/ P. Trevor Sharp  
United States Magistrate Judge

Date: October 15, 2009